



EOLEG FEB01 '12 #1 381

COUNTY OF ERIE

MICHAEL A. SIRAGUSA
ERIE COUNTY ATTORNEY

MARK C. POLONCARZ
COUNTY EXECUTIVE
DEPARTMENT OF LAW

MICHELLE M. PARKER
FIRST ASSISTANT COUNTY ATTORNEY

JEREMY C. TOTI
SECOND ASSISTANT COUNTY ATTORNEY

GA

MEMORANDUM

TO: Robert Graber, Clerk, Erie County Legislature

FROM: Michelle M. Parker, First Assistant County Attorney *Michelle*

DATE: January 30, 2012

RE: Transmittal of new Claims Against Erie County

Mr. Graber:

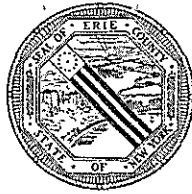
In accordance with the Resolution passed by the Erie County Legislature on June 25, 1987 (Int. 13-14), attached please find seven (7) new claims brought against the County of Erie. The claims are as follows:

Claim Name

Renee Wall as Executor of the Estate of Kenneth D. Braun vs County of Erie
Lauren Gugino as appointed personal needs and property management guardian for injured/incapacitated person, Erica M. Ando vs County of Erie
David J. Frazier vs Erie County, et al.
Roberta Gabler as proposed Admin. of Est. of Steven Gabler vs County of Erie, et al.
George Allen Bowser, Jr. vs County of Erie, et al.
Joyce Stevens vs County of Erie
National Fuel Gas Distribution Corp. vs Erie County Sewer District No. 2

MMP/crj
Attachments
cc: Michael A. Siragusa, Erie County Attorney

3D-9



COUNTY OF ERIE

MICHAEL A. SIRAGUSA
ERIE COUNTY ATTORNEY

MARK C. POLONCARZ
COUNTY EXECUTIVE
DEPARTMENT OF LAW

MICHELLE M. PARKER
FIRST ASSISTANT COUNTY ATTORNEY

JEREMY C. TOFH
SECOND ASSISTANT COUNTY ATTORNEY

January 28, 2012

Mr. Robert M. Graber, Clerk
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Dear Mr. Graber:

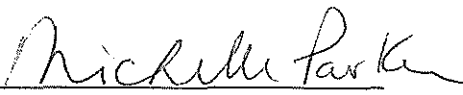
In compliance with the Resolution passed by the Erie County Legislature on June 25, 1987, regarding notification of lawsuits and claims filed against the County of Erie, enclosed please find a copy of the following:

File Name:	<i>Wall, Renee as Executor of the Estate of Kenneth D. Braun vs County of Erie</i>
Document Received:	Notice of Claim
Name of Claimant:	Renee Wall 266 Curley Drive Orchard Park, New York 14127
Claimant's attorney:	Dennis J. Bischof, LLC 6720 Main Street Williamsville, New York 14221

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: 
MICHELLE M. PARKER
First Assistant County Attorney

MMP/mow

Enc.

cc: Michael A. Siragusa, Erie County Attorney

This paper received at the
Erie County Attorney's Office
from George P. Jammal on
the 10th day of January, 2012
at 1:13 a.m./p.m.

George P. Jammal
Assistant County Attorney

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

Renee Wall as Executor of the
Estate of Kenneth D. Braun

Claimant

v.

County of Erie

Defendant

Please Take Notice that the above listed claimant hereby make a claim against the County of Erie for personal injuries, wrongful death and damages generally sustained by them on account of the personal injuries received and in support thereof the claimant states:

1. The post office address of the claimants is: 266 Curley Drive, Orchard Park, New York 14127.

2. The name of the attorneys of the claimant is: Dennis J. Bischof, LLC, 6720 Main Street, Williamsville, New York 14221.

3. This claim arises from the acts and omissions of the defendant. Details of said acts and omission are as follows upon information and belief: Negligent placement of huge boulders in the middle of the subject roundabout; the huge boulders were subsequently removed from the roundabout; improper and inadequate signage; improper and inadequate lighting; failure to install lighting; failure to have overhead lighting in place; pre-mature opening of roundabout; negligent, defective design of roundabout; failure to warn; improper speed zones; failure to create proper speed zones in and around the roundabout; failure to maintain; failure to follow local, State, and Federal laws, rules, regulations, ordinances, and guidelines relative to roundabouts; improper placement of a roundabout; failure to obtain approval in constructing the roundabout; creating a dangerous and hazardous condition; failing to repair and/or correct a dangerous and hazardous condition; having Notice of at least five motor vehicle accidents since the intersection was opened prior to the incident of 10/28/2011; improper installation of a traffic circle despite significant opposition thereto; failure to properly mark the roadway; failure to paint lines on the pavement; opening the road without proper lane markings; the roundabout had been open for only three weeks prior to this fatal collision. See MV-104A attached as exhibit A.

4. Time when the claim arose: October 28, 2011, at 1:32 a.m. The place where the acts took place is: State Highway Route 62 roundabout, at the intersection of Big Tree Road, State of New York, County of Erie, Town of Hamburg. This claim accrued on the December 2, 2011. Kenneth D. Braun died in a motor vehicle accident which occurred on October 28, 2011, at 1:32 a.m. Renee Wall was subsequently issued preliminary letters testamentary December 2, 2011.


5. At the time of the aforesaid occurrence, claimants sustained personal injuries herein after set forth: The items of damages and injuries sustained: personal injury, bodily injury, wrongful death, economic losses, non-economic losses, conscious pain and suffering, lost wages, expenses incurred, loss of enjoyment of life, unrealized occupation, property damages, loss of profits, loss of use of automobile.

6. The accident aforesaid and the injuries and resulting damages herein after alleged were caused upon information and belief through the negligence and carelessness of the County of Erie, their agents, servants, and/or employees; failed to keep the subject premises in a safe manner; failed to avoid the accident; failed to exercise due care and the premises toward claimants; failed to take the proper precautions to prevent the happening of the occurrence herein above set forth; failed to properly maintain the subject premises. This claim arises from the acts and omissions of the defendant. Details of said acts and omission are as follows upon information and belief: Negligent placement of huge boulders in the middle of the subject roundabout; the huge boulders were subsequently removed from the roundabout; improper and inadequate signage; improper and inadequate lighting; failure to install lighting; failure to have overhead lighting in place; pre-mature opening of roundabout; negligent, defective design of roundabout; failure to warn; improper speed zones; failure to create proper speed zones in and around the roundabout; failure to maintain; failure to follow local, State, and Federal laws, rules, regulations, ordinances, and guidelines relative to roundabouts; improper placement of a roundabout; failure to obtain approval in constructing the roundabout; creating a dangerous and hazardous condition; failing to repair and/or correct a dangerous and hazardous condition; having Notice of at least five motor vehicle accidents since the intersection was opened prior to the incident of 10/28/2011; improper installation of a traffic circle despite significant opposition thereto; failure to properly mark the roadway; failure to paint lines on the pavement; opening the road without proper lane markings; the roundabout had been open for only three weeks prior to this fatal collision. See MV-104A attached as exhibit A.

7. The County of Erie created the defect and had actual and constructive notice of the defective, dangerous and hazardous condition that was then existing within the subject office and failed to properly warn people of the danger then existing; failed to remedy the condition that was there and then existing and were otherwise negligent, careless and reckless.

WHEREFORE, our claimant requests that the County of Erie honor and pay the claim of Claimants.

Dated: January 5, 2012


Claimant: Renee Wall

VERIFICATION

Renee Wall, being duly sworn, deposes and says that that deponent is the Claimant in the within action; that deponent has read the foregoing Notice of Claim and know the contents thereof; that the same is true to deponent's own knowledge, except as to matters therein stated to be alleged upon information and belief, and that those matters, deponent believes it to be true.

Dated: January 5, 2012

Renee A Wall
Claimant: Renee Wall

STATE OF NEW YORK §
COUNTY OF ERIE § SS.:

On January 5, 2012, before me, the undersigned, a Notary Public in and for said State, Personally appeared, Renee Wall, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacities, and that by her signatures on the instrument, the individual, or the person upon behalf of which the individuals acted, executed the instrument.

[Signature]
Notary Public

DENNIS J. BISCHOF, Esq.
Notary Public, State of New York
Qualified in Erie County
My Commission Expires Sept. 26, 2014

New York State Department of Motor Vehicles
POLICE ACCIDENT REPORT
MV-104A (3/04)

Local Codes
11-026581
RSTMT7000096

AMENDED REPORT

19
19

1	Accident Date Month 10 Day 28 Year 2011	Day of Week Friday	Military Time 01:32	No. of Vehicles 1	No. Injured 0	No. Killed 1	Not Investigated at Scene <input type="checkbox"/>	Left Scene <input type="checkbox"/>	Police Photos <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
	VEHICLE 1							<input checked="" type="checkbox"/> VEHICLE	<input type="checkbox"/> BICYCLIST	<input type="checkbox"/> PEDESTRIAN	<input type="checkbox"/> OTHER PEDESTRIAN

2	VEHICLE 1 - Driver License ID Number 735057787	State of Lic. NY
	Driver Name - exactly as printed on license BRAUN, KENNETH D	
	Address (Include Number and Street) 3874 SOUTHPARK AVE	Apt. No.
	City or Town BLASDELL	State NY Zip Code 14219

3	Date of Birth Month 12 Day 29 Year 1956	Sex M	Unlicensed <input type="checkbox"/>	No. of Occupants 01	Public Property Damaged <input checked="" type="checkbox"/>
5	Name - exactly as printed on registration BRAUN, KENNETH D	Sex M	Date of Birth Month 12 Day 29 Year 1956		
4	Address (Include Number and Street) 3874 SOUTHPARK AVE	Apt. No.	State NY Zip Code 14219		

4	City or Town BLASDELL	State NY Zip Code 14219			
5	Plate Number 19805JY	State of Reg. NY	Vehicle Year & Make 2008 FORD	Vehicle Type PICK	Ins. Code 076
1	Ticket/Arrest Number(s)				
	Violation Section(s)				

6	Check if involved vehicle is: <input type="checkbox"/> more than 95 inches wide; <input type="checkbox"/> more than 34 feet long; <input type="checkbox"/> operated with an overweight permit; <input type="checkbox"/> operated with an overdimension permit.	VEHICLE 1 DAMAGE CODES: Box 1 - Point of Impact Box 2 - Most Damage Enter up to three more damage codes	VEHICLE 2 DAMAGE CODES: Box 1 - Point of Impact Box 2 - Most Damage Enter up to three more damage codes	Circle the diagram below that describes the accident, or draw your own diagram in space #9. Number the vehicles.
7	Vehicle By: JOES AUTO Towed To: JOES AUTO	17	21 16	ACCIDENT DIAGRAM
	VEHICLE DAMAGE CODING: 1-13 SEE DIAGRAM ON RIGHT. 14. UNDERCARRIAGE 17. DEMOLISHED 15. TRAILER 18. NO DAMAGE 16. OVERTURNED 19. OTHER			See the last page of the MV-104A for the accident diagram.
				Cost of repairs to any one vehicle will be more than \$1000. <input type="checkbox"/> Unknown/Unable to determine <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Reference Marker	Coordinates (if available)	Place Where Accident Occurred:
6 2 -	Latitude/Northing:	County <u>ERIE</u> <input type="checkbox"/> City <input type="checkbox"/> Village <input type="checkbox"/> Town <input checked="" type="checkbox"/> of <u>HAMBURG</u>
5 3 0 3	Longitude/Easting:	Road on which accident occurred <u>ROUTE 62</u> (Route Number or Street Name)
1 2 4 0		at 1) intersecting street <u>BIG TREE RD</u> <input type="checkbox"/> N <input type="checkbox"/> S (Route Number or Street Name)
		or 2) _____ feet _____ miles <input type="checkbox"/> E <input type="checkbox"/> W of _____ (Milepost, Nearest Intersecting Route Number or Street Name)

Accident Description/Officer's notes
 NY REGISTRATION 19805JY TRAVELING N/B ON ROUTE 62 (SOUTHPARK AVE) AT A HIGH RATE OF SPEED. THE VEHICLE FAILED TO MAKE THE TURN AT THE ROUND ABOUT AT BIG TREE RD, CAUSING THE VEHICLE TO ENTER THE ROUND ABOUT, STRIKING THE BOULDERS IN THE CENTER OF THE ROUND ABOUT AND LAUNGING THE VEHICLE OVER THE CIRCLE AND COMING TO REST OVERTURNED IN THE SOUTHBOUND LANE OF ROUTE 62 ON THE OTHERSIDE OF THE ROUND ABOUT.
 PROPERTY DAMAGE BY VEHICLE #01 - 2 SIGN MARKERS, STATE HIGHWAY

	8	9	10	11	12	13	14	15	16	17 BY	TO 18	Names of all involved	Date of Death Only
A	1	1	U	1	54	M	12	08	1	9994		BRAUN, KENNETH D	10/28/2011
B													
C													
D													
E													
F													

Officer's Rank and Signature PATROL <i>J Miller</i>	Badge/ID No. 0006	NCIC No. 01465	Precinct/Post Troop/Zone 1	Station/Beat Sector	Reviewing Officer LAVELLE, M	Date/Time Reviewed 10/29/2011 16:51
Print Name J MILLER						

SEE OVER SHEET
N

New York State Department of Motor Vehicles
POLICE ACCIDENT REPORT
MV-104A (3/04)

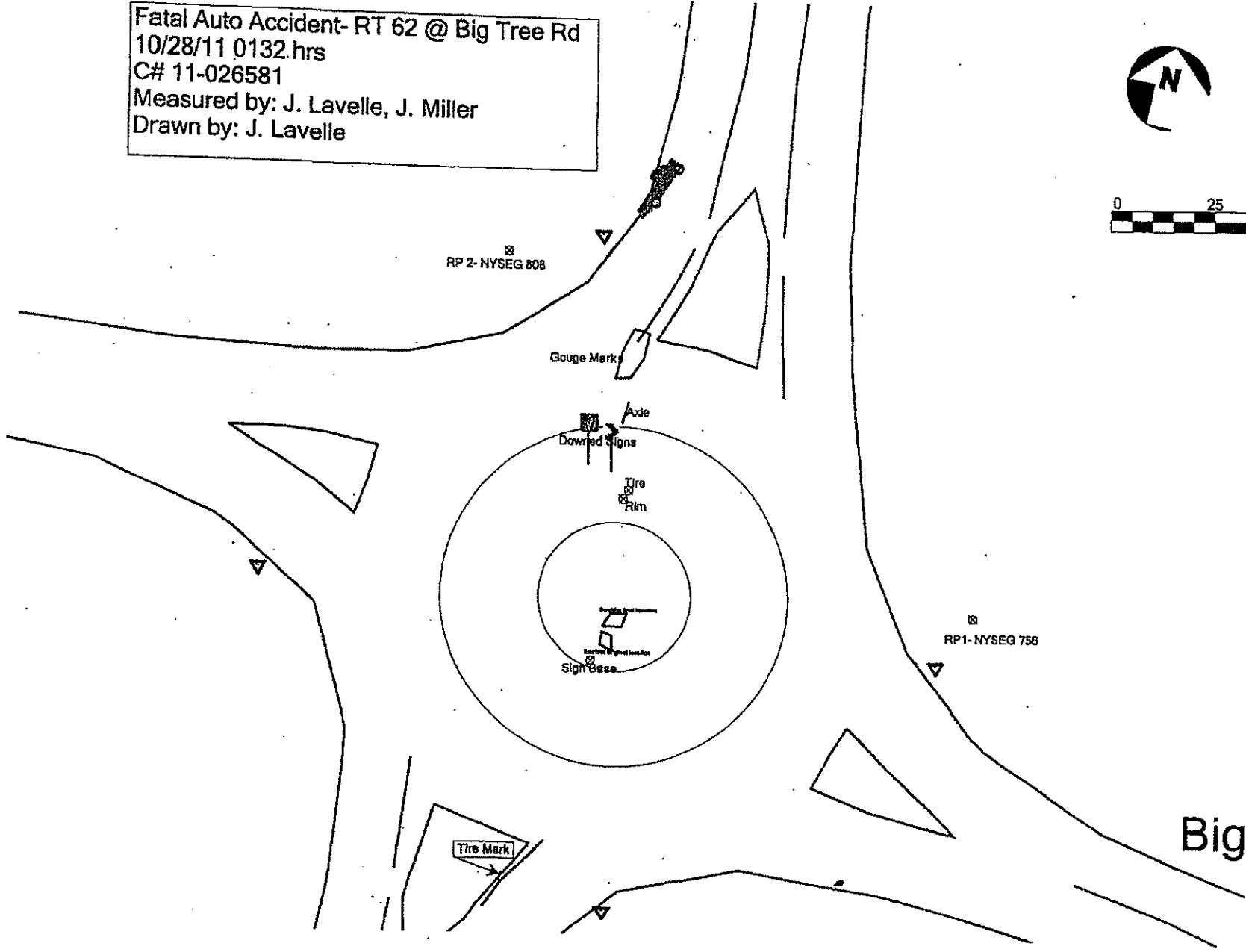
Local Codes
11-026581
RSTMT7000096

AMENDED REPORT

Accident Date			Day of Week	Military Time	No. of Vehicles	No. Injured	No. Killed	Not Investigated at Scene <input type="checkbox"/>	Left Scene <input type="checkbox"/>	Police Photos <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Month	Day	Year						Accident Reconstructed <input type="checkbox"/>		
10	28	2011	Friday	01:32	1	0	1			

SEE ACCIDENT A.I.U. DIAGRAM

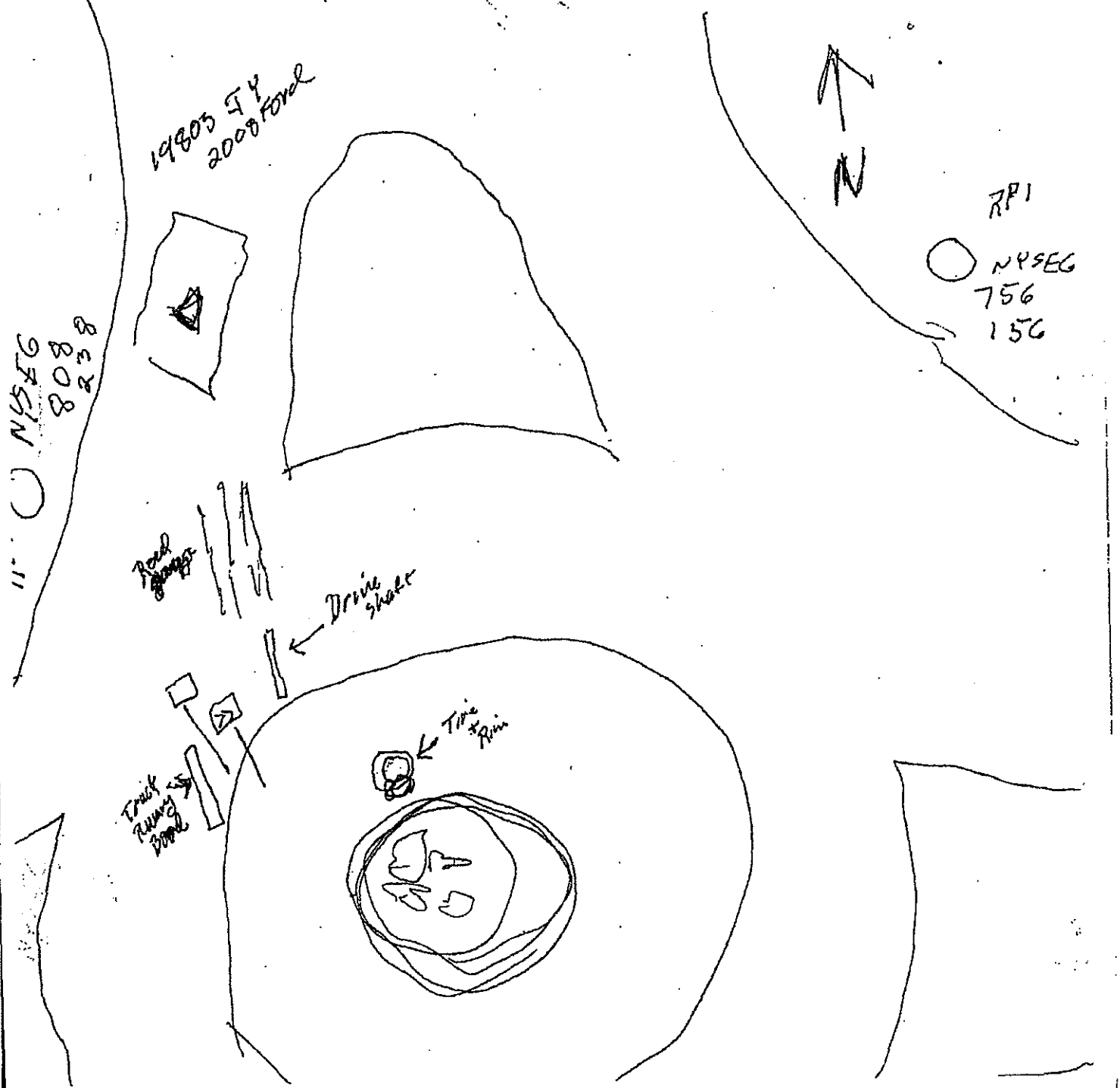
Fatal Auto Accident- RT 62 @ Big Tree Rd
 10/28/11 0132.hrs
 C# 11-026581
 Measured by: J. Lavelle, J. Miller
 Drawn by: J. Lavelle



Department of Police
Town of Hamburg
6100 South Park Avenue
Hamburg, N.Y. 14075
Tele: (716) 648-5111

TRAFFIC ACCIDENT DIAGRAM

ACCIDENT TYPE <i>Fatal</i>	ACCIDENT DATE <i>12/1/6</i>	COMPLAINT NUMBER <i>26581</i>
LOCATION <i>RT 62 @ Bigtree</i>		
DIAGRAM DRAWN BY <i>K. M. LAVELLE</i>	MEASUREMENTS TAKEN BY <i>J. Lavelle & J. Miller</i>	NOT DRAWN TO SCALE <i>X</i>





COUNTY OF ERIE

MICHAEL A. SIRAGUSA
ERIE COUNTY ATTORNEY

MARK C. POLONCARZ
COUNTY EXECUTIVE
DEPARTMENT OF LAW

MICHELLE M. PARKER
FIRST ASSISTANT COUNTY ATTORNEY

JEREMY C. TOTH
SECOND ASSISTANT COUNTY ATTORNEY

January 30, 2012

Mr. Robert M. Graber, Clerk
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Dear Mr. Graber:


In compliance with the Resolution passed by the Erie County Legislature on June 25, 1987, regarding notification of lawsuits and claims filed against the County of Erie, enclosed please find a copy of the following:

File Name:	<i>Gugino, Lauren as appointed PN & PMG for injured person, Ando, Erica M.</i>
Document Received:	Notice of Claim
Name of Claimant:	Lauren Gugino
Claimant's attorney:	John P. Ford, Esq. Damon Morey LLP 200 Delaware Avenue The Avant Building, Suite 1200 Buffalo, New York 14202

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: 
MICHELLE M. PARKER
First Assistant County Attorney

MMP/mow

Enc.

cc: Michael A. Siragusa, Erie County Attorney

STATE OF NEW YORK
SUPREME COURT :: COUNTY OF ERIE

LAUREN GUGINO, as the appointed Personal Needs
and Property Management Guardian for injured/incapacitated
person, ERICA M. ANDO

Claimant,

v.

NOTICE OF CLAIM

COUNTY OF ERIE

Respondent.

This paper received at the
Erie County Attorney's Office
from JAMES W. LISCHNER on

the 23 day of Jan, 20 12
at 1:40 a.m./p.m.

Kelly Brinkworth
Assistant County Attorney

PLEASE TAKE NOTICE THAT, Lauren Gugino, as the appointed Personal Needs and Property Management Guardian for injured/incapacitated person, Erica M. Ando, hereby makes a claim against the COUNTY OF ERIE, and in support of such claim does state the following:

1. The name and post office address of the Claimant is as follows: Lauren Gugino, as the appointed Personal Needs and Property Management Guardian for injured/incapacitated person, Erica M. Ando, pursuant to Article 81 of the Mental Hygiene Law, resides at 68 Cunard Road, Buffalo, New York 14216. At the time of the accident, the injured/incapacitated person, Erica M. Ando, resided at 1021 Olean Road, Lot 3, East Aurora, New York 14052. As a result of the serious and permanent injuries sustained by Ms. Ando which is the subject of this Notice of Claim, she currently resides at Erie County Medical Center, 462 Grider Street, Buffalo, New York 14215. Attached as Exhibit A is the Order to Show Cause signed by Hon. Frederick Marshall, J.S.C. appointing Lauren Gugino temporary guardian of the Personal Needs and Property Management of Erica M. Ando.

2. The attorneys for the Claimant are Damon Morey LLP, The Avant Building, 200 Delaware Avenue, Suite 1200, Buffalo, New York 14202.

3. The claim is one against Respondent, COUNTY OF ERIE for negligence, carelessness and recklessness of Respondent, COUNTY OF ERIE, for serious and permanent personal injuries sustained by injured/incapacitated person, Erica M. Ando, as a result of a motor vehicle accident on October 27, 2011 at the intersection of Military Road and Hinman Avenue/Skillen Street in Buffalo, New York, Erie County.

4. The facts and circumstances of this claim are as follows: According to the Police Accident Report, on October 27, 2011, Ms. Ando was traveling north on Military Road in the 1999 Saturn vehicle that she owned. While traveling through the intersection of Military Road and Hinman Avenue/Skillen Street in Buffalo, New York, Ms. Ando was struck on the left side by eastbound driver Frank Williams, operating a 2009 Nissan vehicle owned by Pauline D. Truesdale. The collision caused severe and permanent injuries to Ms. Ando, as hereinafter set forth, due to the negligence, carelessness and recklessness of the Respondent herein and others. A copy of the Police Accident Report is attached hereto as Exhibit B.

5. Upon information and belief, and at all times hereinafter mentioned, Respondent, COUNTY OF ERIE, owned, maintained, serviced and controlled the intersection and the surrounding area where the accident occurred.

6. Upon information and belief, and at all times hereinafter mentioned, Respondent, COUNTY OF ERIE, was negligent, careless and reckless in, among other things: for failing to properly maintain, service and control the intersection and surrounding area where the accident occurred; for failing to construct adequate and proper signage giving warnings to drivers; for failing to design and construct a safe intersection and surrounding area; for failing to maintain properly the surface of the road in the intersection and surrounding area; for failing to provide

adequate and proper lines and paint markings; for failing to perform adequate and appropriate maintenance, repair and upkeep of the intersection and surrounding area; for failing to respond and/or make the necessary changes to the intersection and surrounding area and its signage in light of the extensive accident history at that intersection and surrounding area; and for other careless, negligent and reckless acts.

7. Upon information and belief, and at all times hereinafter mentioned, Respondent, COUNTY OF ERIE had actual and constructive notice of said defects and failed to remedy the defects in a timely manner and/or Respondent COUNTY OF ERIE created an unsafe condition in the intersection and the surrounding area by its negligent, careless and reckless acts and omissions.

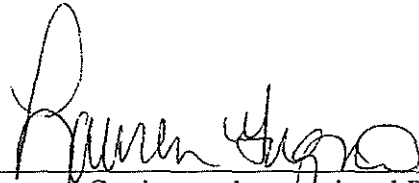
8. This Notice is made and served on behalf of said Claimant in compliance with the provisions of the General Municipal Law section 50(e) and such other laws and statutes as are in the case made and provided.

9. At all times hereinafter mentioned, as a result of the negligence, carelessness and recklessness of Respondent, COUNTY OF ERIE, Claimant suffered serious and permanent injuries, internal as well as external, including, but not limited to: multiple broken bones, closed head injury, and injuries to internal organs, requiring surgical intervention; all of which will cause her to be compelled to expend large sums of money for medical bills and that Claimant has been and will be incapacitated from performing her usual duties for a long period of time, all to her damage in a sum pursuant to General Municipal Law section 50(e) and CPLR section 3017(c), and Claimant claims damages including, but not limited to: conscious pain and suffering, medical expenses and lost wages against Respondent, COUNTY OF ERIE, in an amount in excess of the jurisdictional limits of all lower courts.

WHEREFORE, Claimant requests these claims be allowed and paid for by Respondent,

COUNTY OF ERIE.

Dated: Buffalo, New York
January 23, 2012



Lauren Gugino as the appointed Personal
Needs and Property Management Guardian
for injured/incapacitated person, ERICA M.
ANDO

DAMON MOREY LLP

By: 

John P. Ford, Esq.

Attorneys for Claimant

Erica M. Ando

The Avant Building - Suite 1200

200 Delaware Avenue

Buffalo, New York 14202-2150

Telephone: (716) 856-5500

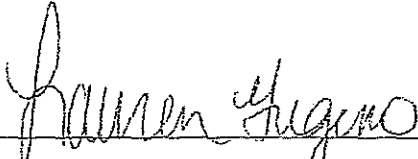
TO: COUNSEL FOR COUNTY OF ERIE
As they may appear

VERIFICATION

STATE OF NEW YORK)
COUNTY OF ERIE) ss:
CITY OF BUFFALO)

Lauren Gugino., being duly sworn, deposes and says:

That deponent is the Guardian in the above-entitled matter; and has read the foregoing Notice of Claim and knows the contents thereof, and that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged upon information and belief, and that as to those, deponent believes same to be true.



LAUREN GUGINO as the appointed Personal
Needs and Property Management Guardian for
injured/incapacitated person, ERICA M. ANDO

Subscribed and sworn to before me this
23 day of June, 2012.



Notary Public

MARY K. MYERS
Notary Public, State of New York
Qualified in Niagara County
No. 01MY6109779
My Commission Expires 5-17-2012

At an IAS Term Part 33 of the Supreme Court of the State of New York, held in and for the County of Erie at the Courthouse, Buffalo, New York on the 13th day of January, 2012.

PRESENT: HON. FREDERICK J. MARSHALL
Justice Presiding

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

In the Matter of the Application of Lauren Gugino,
Petitioner, for the appointment of a Personal Needs
and Property Management Guardian

for

ERICA M. ANDO,

An Alleged Incapacitated Person.

IMPORTANT

An application has been filed in Court by Lauren Gugino, who believes you may be unable to take care of your personal needs and financial affairs. Ms. Gugino is asking that someone be appointed to make decisions for you. With this paper is a copy of the application to the Court showing why Ms. Gugino believes you may be unable to take care of your personal needs or financial affairs. Before the Court makes the appointment of someone to make decisions for you, the Court holds a hearing at which you are entitled to be present and to tell the judge if you do not want anyone appointed. This paper tells you when that Court hearing will take place. If you do not appear in Court, your rights may be seriously affected.

You have the right to demand a trial by jury. You must tell the Court if you wish to have a trial by jury. If you do not tell the Court, the hearing will be conducted without a jury. The name,

PAID
CASH

JAN 10 2012

ERIE COUNTY
CLERK'S OFFICE

ORDER TO SHOW CAUSE
Index No. 5E900078/12

FILED
ACTION & PROCEEDINGS

JAN 17 2012

ERIE COUNTY
CLERK'S OFFICE

address and telephone number of the Clerk of the Court are: ELLIS W. BOZZOLO, Chief Clerk, 25 Delaware Avenue, Buffalo, NY 14202, (716) 845-9301.

The Court has appointed a Court Evaluator to explain this proceeding to you and to investigate the claims made in the application. The Court may give the Court Evaluator permission to inspect your medical, psychological, or psychiatric records. You have the right to tell the judge if you do not want the Court Evaluator to be given that permission. The Court Evaluator's name, address and telephone number are: Joseph F Gervase Jr.
930 Convention Tower Buffalo NY 14202 716 819-1118

You are entitled to have a lawyer of your choice represent you. If you want the Court to appoint a lawyer to help you and represent you, the Court will appoint a lawyer for you. You will be required to pay the lawyer unless you do not have the money to do so.

On reading and filing the annexed petition of Lauren Gugino, duly verified the 6th day of January, 2012, from which it appears that Erica M. Ando, the Alleged Incapacitated Person above-named, currently at Erie County Medical Center, 462 Grider Street, Buffalo, New York 14215, is likely to suffer harm because she is unable to provide for her personal needs and property management and cannot adequately understand and appreciate the nature and consequences of such inability; and it appearing that the said Alleged Incapacitated Person owns or possesses certain personal property within the State of New York.

LET, Erica M. Ando, the Alleged Incapacitated Person,

SHOW CAUSE before this Justice presiding at an IAS Special Term Part 33 of this Court, to be held in the County of Erie, at the Courthouse, Buffalo, New York, 50 Delaware Ave, on the 7th day of February 2012 at 9:30 a.m./p.m. of that day, or as soon thereafter as counsel may be heard;

WHY a Personal Needs and Property Management Guardian should not be appointed for Erica M. Ando, the Alleged Incapacitated Person, within the State of New York, upon qualifying in accordance with the statutes of the State of New York and such cases made and provided;

WHY a Personal Needs and Property Management Guardian should not be authorized to exercise the following powers on behalf of the said Alleged Incapacitated Person if the relief sought in the petition is granted;

- (1) Authority to consent to all routine and major medical and dental treatment;
- (2) Authority to make any and all decisions involving her personal needs;
- (3) Authority to transfer her to another level of care or facility, including a residential health care center;
- (4) Authority to handle property management over all her assets she may now own or acquire in the future, including the authority to reimburse Damon Morey LLP for all legal expenses incurred in bringing this order to show cause;
- (5) Authority to handle her Medicaid applications and/or recertifications and other matters related to her receipt of Medicaid and SSI benefits; and
- (6) Authority to handle funeral arrangements for her;
- (7) Authority to commence a lawsuit against the State of New York, and any and all other parties, relating to an accident that occurred on or about October 27, 2011;
- (8) Authority to create and/or fund a Supplemental Needs Trust, including using a pooled trust, for the benefit of the AIP.

WHY Petitioner should not have such other and further or different relief as may be just and proper.

The Alleged Incapacitated Person has the right to be represented by legal counsel of her choice, to attend the hearing at the time and place set forth above, present evidence, call witnesses and cross-examine witnesses;

SUFFICIENT REASON APPEARING THEREFORE, it is

ORDERED, the personal service, by delivery of a copy of this order, and the papers upon which it is granted, to Erica M. Ando, the Alleged Incapacitated Person on or before the 15th day of January, 2012 be deemed good and sufficient service, and it is further

ORDERED, that service of a copy of this order and the papers upon which it is granted, either by certified mail, overnight delivery or by personal delivery to its offices upon Joseph F Gerase Jr who is hereby appointed Court Evaluator herein to examine medical, social and financial records and to question any health care providers of Erica M. Ando, and report to the Court the functional abilities and limitations of the Alleged Incapacitated Person, upon qualifying as such Court Evaluator in accordance with the rules and practices of this Court, and upon Bradley J Stamm, Esq. of 1127 Wehrle Dr Wmsville W 14221, who is hereby appointed to represent the rights and interests of Erica M. Ando, the Alleged Incapacitated Person, on or before the 20th day of January, 2012, be deemed good and sufficient service [within seven days following the appointment of the Court Evaluator and attorney in accordance with Mental Hygiene Law §81.07(d)(2)(ii)], and it is further

ORDERED, that a copy of this order and the papers upon which it is granted be delivered, by certified mail, return receipt requested, or by overnight delivery, to Lauren Gugino, Leah Jackson, Rachel Kelsey and Ben Hoch, children of Erica M. Ando, the Alleged Incapacitated Person, noted on the Petition, and it is

ORDERED, that pending the return date of this proceeding and further order of the Court that Lauren Gugino is appointed Temporary Guardian of Erica M. Ando, the Alleged Incapacitated Person and is authorized to execute the following papers without filing of a bond:

- (1) Authority to consent to all routine and major medical and dental treatment;
- (2) Authority to make any and all decisions involving Erica M. Ando's, the Alleged

Incapacitated Person, personal needs;

(3) Authority to transfer Erica M. Ando, the Alleged Incapacitated Person, to another level of care or facility, including a skilled nursing health care center;

(4) Authority to handle property management over all Erica M. Ando's assets that the Alleged Incapacitated Person may now own or acquire in the future, including the authority to reimburse Damon Morey LLP for all legal expenses incurred in bringing this order to show cause;

(5) Authority to handle certification and/or recertification or applications in any other matters related to her receipt of any government or private benefits;

(6) Authority to commence a lawsuit against any municipality and making all decisions related to litigating and/or settlement starting from any matter arising out of or related to October 27, 2011 and any and all other potential tortfeasors relating to an incident which occurred on or about October 27, 2011;

(7) Authority to sign any and all documentation, including but not limited to, medical authorizations, related to or arising out of October 27, 2011 accident; and

(8) Authority to handle funeral arrangements for her.

ENTERED:

FREDERICK J. MARSHALL

, J.S.C.

GRANTED:

CAROL M. WILLIAMS

Court Clerk

New York State Department of Motor Vehicles
POLICE ACCIDENT REPORT
MV-104A (6/04)

Local Codes
11300 0677
A0041830

AMENDED REPORT POLICE COPY 2

19
10

Accident Date Month: 10 Day: 27 Year: 2011	Day of Week THURS	Military Time 1715	No. of Vehicles 7	No. Injured 3	No. Killed 0	Not Investigated at Scene <input type="checkbox"/>	Lrt Scene <input type="checkbox"/>	Police Photos <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
VEHICLE 1						<input checked="" type="checkbox"/> VEHICLE 2 <input type="checkbox"/> BICYCLIST <input type="checkbox"/> PEDESTRIAN <input type="checkbox"/> OTHER PEDESTRIAN		

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17

VEHICLE 1 - Driver License ID Number 397 698 642	State of Lic. NY	VEHICLE 2 - Driver License ID Number 857 751 832	State of Lic. NY
Driver Name - exactly as printed on license Williams, FRANK	Apt. No.	Driver Name - exactly as printed on license ANNO, ERICA M	Apt. No.
Address (Include Number & Street) 62 DONALDSON RD	City or Town BUFFALO	Address (Include Number & Street) 1021 DEAN RD LOT 3	City or Town EAST AURORA
State NY	Zip Code 14208	State NY	Zip Code 14052

21
22

Date of Birth Month: 7 Day: 21 Year: 43	Sex M	Unlicensed <input type="checkbox"/>	No. of Occupants 1	Public Property Damaged <input type="checkbox"/>	Date of Birth Month: 8 Day: 19 Year: 55	Sex F	Unlicensed <input type="checkbox"/>	No. of Occupants 1	Public Property Damaged <input type="checkbox"/>
Name - exactly as printed on registration Truesdale Pauline D	Sex F	Date of Birth Month: 4 Day: 12 Year: 32	Haz. Mat. Code <input type="checkbox"/>	Released <input type="checkbox"/>	Name - exactly as printed on registration ANNO ERICA M	Sex F	Date of Birth Month: 8 Day: 19 Year: 55	Haz. Mat. Code <input type="checkbox"/>	Released <input type="checkbox"/>
Address (Include Number & Street) 62 DONALDSON RD	City or Town BUFFALO	State NY	Zip Code 14208	City or Town Buffalo	State NY	Zip Code 14139			

23
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Plate Number MUV 1552	State of Reg. NY	Vehicle Year & Make 2009 NISSAN	Vehicle Type 413	Ins. Code 100	Plate Number EWA 3316	State of Reg. NY	Vehicle Year & Make 1999 SATURN	Vehicle Type 411	Ins. Code 000
Ticket/Arrest Number(s)	Violation Section(s)	Ticket/Arrest Number(s)	Violation Section(s)						

<p>Check if involved vehicle is:</p> <input type="checkbox"/> more than 95 inches wide; <input type="checkbox"/> more than 34 feet long; <input type="checkbox"/> operated with an overweight permit; <input type="checkbox"/> operated with an overdimension permit. <p>VEHICLE 1 DAMAGE CODES</p> <p>Box 1 - Point of Impact Box 2 - Most Damage</p> <p>Enter up to three more Damage Codes</p> <p>Vehicle By: MAZZ Towed To: 1255 Bailey</p>	<p>Check if involved vehicle is:</p> <input type="checkbox"/> more than 95 inches wide; <input type="checkbox"/> more than 34 feet long; <input type="checkbox"/> operated with an overweight permit; <input type="checkbox"/> operated with an overdimension permit. <p>VEHICLE 2 DAMAGE CODES</p> <p>Box 1 - Point of Impact Box 2 - Most Damage</p> <p>Enter up to three more Damage Codes</p> <p>Vehicle By: CHASE Towed To: 269 HINMAN</p>	<p>Circle the diagram below that describes the accident, or draw your own diagram in space #9. Number the vehicles.</p> <p>1. Rear End 3. Left Turn 4. Right Angle 5. Right Turn 7. Head On</p> <p>2. Sideswipe (same direction) 6. Left Turn 8. Right Turn 9. Sideswipe (opposite direction)</p> <p>ACCIDENT DIAGRAM #2</p> <p>MILITARY</p> <p>SKILLEN</p> <p>Cost of repairs to any one vehicle will be more than \$1000. <input type="checkbox"/> Unknown/Unable to Determine <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>
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Reference Marker	Coordinates (if available) Latitude/Northing: Longitude/Easting:	Place Where Accident Occurred: County: ERIE <input checked="" type="checkbox"/> City <input type="checkbox"/> Village <input type="checkbox"/> Town of: BUFFALO Road on which accident occurred: MILITARY at 1) intersecting street: HINMAN/SKILLEN or 2) _____ of _____ Feet Miles (Milepost, Nearest intersecting Route Number or Street Name)
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29
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Accident Description/Officer's Notes
Vehicle #1 TRAVELING EAST ON SKILLEN AT HIGH RATE OF SPEED PASS THRU RED LIGHT AND STRUCK VEHICLE #2 WHICH WAS TRAVELING NORTH ON MILITARY TOW LEFT LANE. VEHICLE #2 WAS PUSHED INTO VEHICLE #3 WHICH WAS NORTH ON MILITARY IN RIGHT LANE. VEHICLE #2 CONT POS 2

30
1-11
USE COVER SHEET

	8	9	10	11	12	13	14	15	16	17	18	BY	TO	Names of all involved	Date of Death Only
A	1	1	4-7	1	68	M	-	-	4	547	1405	Williams	FRANK		
B	2	1	4-7	1	56	F	H22-9	2	507	1405	ANNO	ERICA			
C	3	1	4-7	1	61	F	512	6	278	1405	RIEGER	SAUNDRA			
D															
E															
F															

Officer's Rank and Signature Print Name: [Signature] Full Name: [Signature]	Badge/ID No. 110400 11401	NCIC No.	Precinct/Post Troop/Zone B	Station/Beat Sector 1	Reviewing Officer [Signature]	Date/Time Reviewed 10-27-11 3220 HRS
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Page 1 of 4 Pages
 Local Codes
 11300022
 Am # 1830

New York State Department of Motor Vehicles
POLICE ACCIDENT REPORT
 MV-104A (6/04)
 AMENDED REPORT POLICE COPY 2

Accident Date: Month 10, Day 27, Year 2011
 Day of Week: THURS
 Military Time: 715
 No. of Vehicles: 7
 No. Injured: 3
 No. Killed: 0
 Not Investigated at Scene:
 Left Scene:
 Police Photos: Yes No
 Accident Reconstructed:

VEHICLE 1: 794528 718
 Driver Name: BIGGER SAUNDER
 Address: 204 MOREFIELD DR
 City/Town: Williamsville NY 14721

VEHICLE 2: PARKED
 Driver Name: PARKED
 Address: PARKED
 City/Town: Williamsville NY 14721

Date of Birth: 7/20/50
 Sex: F
 Name: BIGGER SAUNDER
 Address: 204 MOREFIELD DR
 City/Town: Williamsville NY 14721

Date of Birth: 11/20/63
 Sex: M
 Name: MURPHY SAUNDERS
 Address: 327 FRONT ST
 City/Town: Williamsville NY 14721

Plate Number: WAH 923
 State of Reg: NY
 Vehicle Year & Make: 2009 Chevy
 Vehicle Type: 411
 Ins. Code: 350

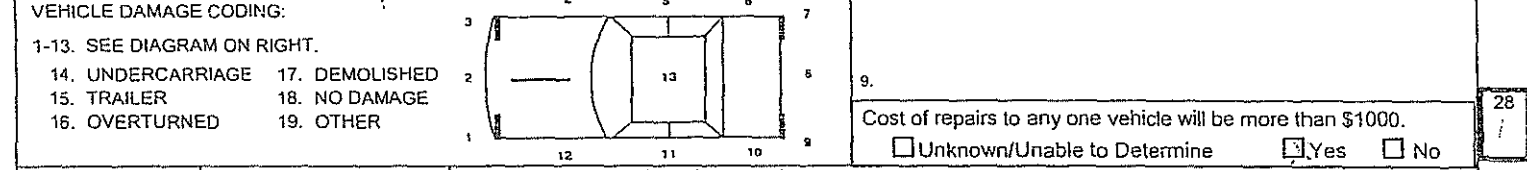
Plate Number: NYE 1441
 State of Reg: NY
 Vehicle Year & Make: 98 Dodge
 Vehicle Type: 12
 Ins. Code: 0179

Check if involved vehicle is:
 more than 95 inches wide;
 more than 34 feet long;
 operated with an overweight permit;
 operated with an overdimension permit.

VEHICLE 1 DAMAGE CODES:
 Box 1 - Point of Impact: 1, 2
 Box 2 - Most Damage: 10, 11

VEHICLE 2 DAMAGE CODES:
 Box 1 - Point of Impact: 1, 2
 Box 2 - Most Damage: 9, 9

VEHICLE DAMAGE CODING:
 1-13. SEE DIAGRAM ON RIGHT.
 14. UNDERCARRIAGE 17. DEMOLISHED
 15. TRAILER 18. NO DAMAGE
 16. OVERTURNED 19. OTHER



Place Where Accident Occurred:
 County: Sullivan
 Road on which accident occurred: ...
 at 1) intersecting street: ...
 or 2) ...

Accident Description/Officer's Notes:
 Cont. truck to be pushed off the road by vehicle #1 striking
 a crosswalk pole and business sign pole. Vehicle #1
 struck vehicles #4 and #5. Debris from vehicles
 struck vehicle #10. Crosswalk pole fell onto vehicle #7.

ALL INVOLVED	8	9	10	11	12	13	14	15	16	17	18	BY	TO	18	Names of all involved	Date of Death Only
A																
B	See Page #1															
C																
D																
E																
F																

Officer's Rank and Signature: PO J. Hummel
 Print Name: PO J. Hummel
 Badge/ID No.: 00049
 NCIC No.: 01401
 Precinct/Post Troop/Zone: 4
 Station/Beat Sector: 4
 Reviewing Officer: H. D. Reid
 Date/Time Reviewed: 10-27-11 2220HRS

New York State Department of Motor Vehicles
POLICE ACCIDENT REPORT

Local Codes
11 300-1622
Apt # 183

MV-104A (6/04)
POLICE COPY 2

AMENDED REPORT

19
10

1	Accident Date Month: 10, Day: 27, Year: 2011	Day of Week THURS	Military Time 1715	No. of Vehicles 7	No. Injured 3	No. Killed	Not Investigated at Scene <input type="checkbox"/>	Left Scene <input type="checkbox"/>	Police Photos <input type="checkbox"/>						
	VEHICLE 1			VEHICLE 2			BICYCLIST			PEDESTRIAN			OTHER PEDESTRIAN		

20
17

2	VEHICLE 1 - Driver License ID Number Driver Name - exactly as printed on license Address (Include Number & Street) City or Town State Zip Code	State of Lic.	VEHICLE 2 - Driver License ID Number Driver Name - exactly as printed on license Address (Include Number & Street) City or Town State Zip Code	State of Lic.
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21
22

3	Date of Birth Month: 1, Day: 2, Year: 1957 Sex: M Unlicensed <input type="checkbox"/> No. of Occupants Public Property Damaged <input type="checkbox"/>	Date of Birth Month: 1, Day: 2, Year: 1957 Sex: M Unlicensed <input type="checkbox"/> No. of Occupants Public Property Damaged <input type="checkbox"/>
---	--	--

23
24

4	Name - exactly as printed on registration Baird, Michael P Address (Include Number & Street) 35 B B Road City or Town Syracuse State NY Zip Code 14207	Name - exactly as printed on registration Address (Include Number & Street) City or Town State Zip Code
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5	Plate Number ARZ 2038 State of Reg. NY Vehicle Year & Make 2008 SAH Vehicle Type SUBV Ins. Code 011	Plate Number State of Reg. Vehicle Year & Make Vehicle Type Ins. Code
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6	Check if involved vehicle is: <input type="checkbox"/> more than 95 inches wide; <input type="checkbox"/> more than 34 feet long; <input type="checkbox"/> operated with an overweight permit; <input type="checkbox"/> operated with an overdimension permit.	Check if involved vehicle is: <input type="checkbox"/> more than 95 inches wide; <input type="checkbox"/> more than 34 feet long; <input type="checkbox"/> operated with an overweight permit; <input type="checkbox"/> operated with an overdimension permit.	Circle the diagram below that describes the accident, or draw your own diagram in space #9. Number the vehicles.
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7	VEHICLE 1 DAMAGE CODES Box 1 - Point of Impact Box 2 - Most Damage Enter up to three more Damage Codes	VEHICLE 2 DAMAGE CODES Box 1 - Point of Impact Box 2 - Most Damage Enter up to three more Damage Codes	ACCIDENT DIAGRAM 9.
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31
32

8	Reference Marker	Coordinates (if available) Latitude/Northing: Longitude/Easting:	Place Where Accident Occurred: County: ERIP Road on which accident occurred: Hillman Kill Rd at 1) intersecting street: Millery or 2) _____ of _____ Feet Miles (Milepost, Nearest intersecting Route Number or Street Name)
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33
34

Accident Description/Officer's Notes WITNESS #1 SPAN ROGAN (716) 348-6992. WITNESS #2 ADORA McCAY (716) 715-6412 WITNESS #3 TONY MARABOLLO (716) 874-9754																	
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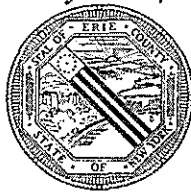
35
36

9	Officer's Rank and Signature Print Name in Full	Badge/ID No.	NCIC No.	Precinct/Post Troop/Zone	Station/Beat/Sector	Reviewing Officer	Date/Time Reviewed
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37
38

8	9	10	11	12	13	14	15	16	17	BY	TO	18	Names of all involved	Date of Death Only

39
40



COUNTY OF ERIE

MICHAEL A. SIRAGUSA
ERIE COUNTY ATTORNEY

MARK C. POLONCARZ
COUNTY EXECUTIVE
DEPARTMENT OF LAW

MICHELLE M. PARKER
FIRST ASSISTANT COUNTY ATTORNEY

JEREMY C. TOTH
SECOND ASSISTANT COUNTY ATTORNEY

January 28, 2012

Mr. Robert M. Graber, Clerk
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Dear Mr. Graber:


In compliance with the Resolution passed by the Erie County Legislature on June 25, 1987, regarding notification of lawsuits and claims filed against the County of Erie, enclosed please find a copy of the following:

File Name:	<i>Frazier, David J. vs Erie County Sheriff's Dept., Erie County and Erie County Sheriff Deputy Jeffrey Ely</i>
Document Received:	Notice of Claim
Name of Claimant:	David J. Frazier 74 A. Newell Avenue, Apt. 8 Tonawanda, New York 14150
Claimant's attorney:	Max Humann, Esq. Lipsitz Green Scime Cambria LLP 42 Delaware Avenue, Suite 120 Buffalo, New York 14202

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: 
MICHELLE M. PARKER
First Assistant County Attorney

TFK/mow

Enc.

cc: Michael A. Siragusa, Erie County Attorney

In the Matter of the Claim of

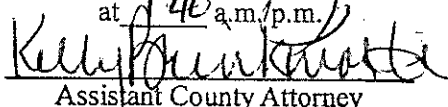
DAVID J. FRAZIER,

Claimant,

- against -

ERIE COUNTY SHERIFF'S DEPARTMENT
ERIE COUNTY, and
ERIE COUNTY SHERIFF DEPUTY
JEFFREY ELY

NOTICE OF CLAIM

This paper received at the
Erie County Attorney's Office
from JAMES WIELSCHERON
the 23 day of Jan 20 12
at 1:40 a.m./p.m.

Assistant County Attorney

TO: ERIE COUNTY SHERIFF'S DEPARTMENT
ERIE COUNTY, and
ERIE COUNTY SHERIFF DEPUTY JEFFREY ELY

PLEASE TAKE NOTICE, that David J. Frazier, has and hereby makes claim against Erie County Sheriff's Department, Erie County and Erie County Sheriff Deputy Jeffrey Ely, and in support of said claim states the following:

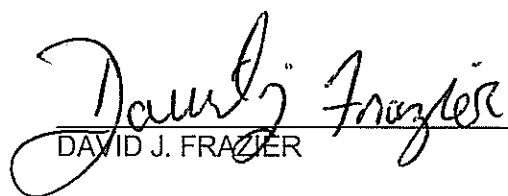
1. The Post Office address of the claimant is 74 A. Newell Avenue, Apt. 8, Tonawanda, New York 14150.
2. The attorneys for the claimant are LIPSITZ GREEN SCIME CAMBRIA LLP, and their Post Office address is 42 Delaware Avenue, Suite 120, Buffalo, New York 14202-3924.
3. The claim of David J. Frazier is for personal injuries, including without limitation, loss of income and medical expenses, and for consequential damages generally.
4. The claim arose at Briarhurst Drive, located in the Town of Tonawanda, County of Erie and State of New York.
5. The claim arose in substance as follows: On the 4th day of December, 2011, at approximately 7:00 p.m., the claimant, David J. Frazier, was caused to sustain serious injuries when he was struck by the door of an Erie County Sheriff's vehicle while traveling on his bicycle.

6. Upon information and belief, the incident herein described and the resultant injuries and damages sustained were caused as a result of the negligence, carelessness, recklessness and/or unlawful conduct on the part of the agents, servants and/or employees of Erie County Sheriff's Department and Erie County and including Erie County Sheriff Deputy Jeffrey Ely, and more particularly, among other things, in the negligent, careless and reckless operation of the subject vehicle; in failing and omitting to be alert and to keep a proper lookout; in failing and omitting to ensure the safety of bicyclists; and in failing and omitting to properly and safely open his car door.

7. Upon information and belief, as a result of the aforesaid incident, the claimant, David J. Frazier, sustained severe bodily injuries and was painfully and seriously injured; was rendered sick, sore, lame and disabled; sustained pain and suffering and shock to his nerves and nervous system; and more particularly, David J. Frazier, sustained injuries in the nature of neck, head, scarring and other various injuries. Upon information and belief, these injuries will result in permanent defects.

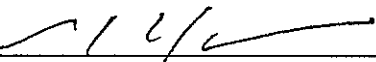
WHEREFORE, claimant requests that Erie County Sheriff's Department, Erie County and Erie County Sheriff Deputy Jeffrey Ely honor and pay the claim on behalf of David J. Frazier.

DATED: Buffalo, New York
December 29, 2011



DAVID J. FRAZIER

LIPSITZ GREEN SCIME CAMBRIA LLP

By: 

MAX HUMANN, ESQ.
Attorneys for Claimant
Office and P.O. Address
42 Delaware Avenue, Suite 120
Buffalo, New York 14202-3924
(716) 849-1333
[MH: #]

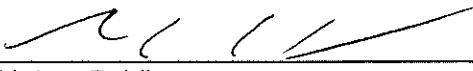
STATE OF NEW YORK)
) SS.:
COUNTY OF ERIE)

DAVID J. FRAZIER, being duly sworn deposes and says that he is the claimant above named; and makes this claim on behalf of self; he has read the foregoing claim and knows the contents thereof; the same is true to the knowledge of the claimant except for the matters herein alleged upon information and belief, and as to those matters, he/she believes them to be true.



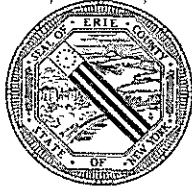
DAVID J. FRAZIER

Sworn to before me on this
4 day of Jan, 2012.



Notary Public

MAX HUMANN ESQ.
Notary Public, State of New York
Qualified in Erie County
My Commission Expires April 16, 2018



COUNTY OF ERIE

MICHAEL A. SIRAGUSA
ERIE COUNTY ATTORNEY

MARK C. POLONCARZ
COUNTY EXECUTIVE
DEPARTMENT OF LAW

MICHELLE M. PARKER
FIRST ASSISTANT COUNTY ATTORNEY

JEREMY C. TOTH
SECOND ASSISTANT COUNTY ATTORNEY

January 28, 2012

Mr. Robert M. Graber, Clerk
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Dear Mr. Graber:

In compliance with the Resolution passed by the Erie County Legislature on June 25, 1987, regarding notification of lawsuits and claims filed against the County of Erie, enclosed please find a copy of the following:

File Name:	<i>Gabler, Roberta as Proposed Admin. of Estate of Gabler, Steven</i>
Document Received:	Notice of Claim
Name of Claimant:	Roberta Gabler 25 Madison Circle Middle Island, New York 11953
Claimant's attorney:	John C. Murrett, Esq. Cellino & Barnes, PC 2500 Main Place Tower 350 Main Street Buffalo, New York 14202

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: 
MICHELLE M. PARKER
First Assistant County Attorney

MMP/mow

Enc.

cc: Michael A. Siragusa, Erie County Attorney

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

ROBERTA GABLER, as Proposed
Administratrix of the ESTATE OF
STEVEN GABLER
25 Madison Circle
Middle Island, New York 11953

Claimant,

v.

COUNTY OF ERIE
Department of Law
95 Franklin Street
Buffalo, New York 14202

NOTICE OF CLAIM

ERIE COUNTY HOLDING CENTER
10 Delaware Avenue
Buffalo, New York 14202

ERIE COUNTY SHERIFF'S DEPARTMENT
One Sheriff's Drive
Orchard Park, New York 14127

Respondents,

PLEASE TAKE NOTICE, that Roberta Gabler, as Proposed Administratrix of the Estate of Steven Gabler, deceased, hereby makes a claim against the respondents, County of Erie, Erie County Holding Center and Erie County Sheriff's Department for damages for personal injury and wrongful death sustained by Steven Gabler, deceased and damages sustained by the distributees of the Estate of Steven Gabler, deceased by reason of the wrongful, unlawful, negligent and careless acts and omissions of the

respondents, their agents, servants and/or employees and in support thereof, the claimant states:

1. The address of the claimant is 25 Madison Circle, Middle Island, New York, 11953.

2. The claimant is represented by Cellino & Barnes, P.C. with offices at 2500 Main Place Tower, 350 Main Street, Buffalo, New York, 14202, telephone (716) 854-2020. The underlying incident in which Steven Gabler, deceased sustained personal injuries and wrongful death occurred on or about November 6, 2011.

3. On or about October 28, 2011 through on or about November 4, 2011, Steven Gabler was incarcerated at the Erie County Holding Center.

4. The Erie County Holding Center is owned, operated and controlled by the respondent, County of Erie.

5. That during the period of his incarceration, respondents knew or should have known that Steven Gabler was required to take various medications to control his mental illness. Among these medications which he had been prescribed to take, but were denied to him at the Erie County Holding Center, were Tradzidone and Zaboziim. Upon information and belief, despite numerous requests for medication, medication was only provided to him on one occasion during the eight-day period.

6. That subsequent to his arrest on October 28, 2011 respondents knew or should have known of Steven Gabler's prior medical, psychiatric and/or psychological history indicated that Steven Gabler was required to take medication to control his mental illness.

7. On or about November 4, 2011, Mr. Gabler was released from the Erie County Holding Center.

8. That as a result of not having his medication on a regular basis for the eight days that he was incarcerated at the Erie County Holding Center, the decedent, Steven Gabler, was caused to suffer the effects of not taking the medication which greatly affected his mental condition.

9. The respondents failed to take appropriate actions during his incarceration from October 28, 2011 through November 4, 2011 to aide him in combatting this mental illness and providing him medication to allow him to function without being a danger to others or himself.

10. Said omissions by respondents constituted negligence which contributed to the suicide by Steven Gabler on November 6, 2011.

11. That Steven Gabler has no heirs and his mother, Roberta Gabler, will be seeking Letters of Limited Administration to be granted by the Erie County Surrogate's Court. The claimant's decedent, Steven Gabler, suffered personal injuries, mental suffering, conscious pain and suffering as a result of the respondents' negligence and claimant's decedent's wrongful death occurred as a result of the negligence on the part of respondents.

12. That Steven Gabler suffered pain and suffering, mental anguish, mental suffering and other resulting damages prior to his death and said conscious pain and suffering, damage and wrongful death were caused by respondents' negligence.

13. By reason of the foregoing, claimant and/or the distributees of Steven Gabler's estate have suffered injury and damages including, but not limited to, economic and financial loss, loss of guidance, loss of society, comfort, counsel all due to the wrongful death of Steven Gabler as a result of the negligence of the respondents.

TAKE NOTICE that claimant demands payment of his claim as set forth above.

DATED: Buffalo, New York
January 18, 2012

Yours, etc.,

CELLINO & BARNES, P.C.

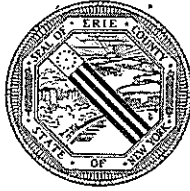
By: 

John C. Myrrett, Jr., Esq.
Attorneys for Plaintiff
2500 Main Place Tower
350 Main Street
Buffalo, NY 14202-3725
(716) 854-2020

TO: COUNTY OF ERIE
Department of Law
95 Franklin Street
Buffalo, New York 14202

ERIE COUNTY HOLDING CENTER
10 Delaware Avenue
Buffalo, New York 14202

ERIE COUNTY SHERIFF'S DEPARTMENT
One Sheriff's Drive
Orchard Park, New York 14127



COUNTY OF ERIE

MICHAEL A. SIRAGUSA
ERIE COUNTY ATTORNEY

MARK C. POLONCARZ

COUNTY EXECUTIVE
DEPARTMENT OF LAW

MICHELLE M. PARKER
FIRST ASSISTANT COUNTY ATTORNEY

JEREMY TOTH
SECOND ASSISTANT COUNTY ATTORNEY

January 24, 2012

Mr. Robert M. Graber, Clerk
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Dear Mr. Graber:


In compliance with the Resolution passed by the Erie County Legislature on June 25, 1987, regarding notification of lawsuits and claims filed against the County of Erie, enclosed please find a copy of the following:

File Name:	<i>Bowser, George Allen Jr. vs Erie County Holding Center and County of Erie</i>
Document Received:	Notice of Claim
Name of Claimant:	George A. Bowser, Jr. ICN #3707 c/o Erie County Holding Center 40 Delaware Avenue Buffalo, New York 14202
Claimant's attorney:	Pro Se

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: 
MICHELLE M. PARKER
First Assistant County Attorney

MMP/mow

Enc.

cc: Michael A. Siragusa, Erie County Attorney

TK

=====X

Claimant,

NOTICE OF CLAIM

George Allen Bowser Jr.

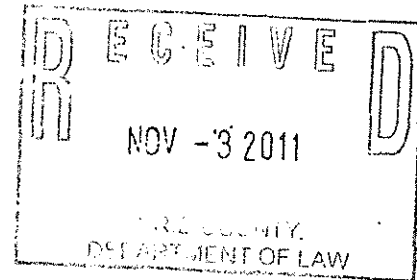
- vs -

Erie County Holding Center

THE COUNTY OF ERIE,

Defendant.

=====X



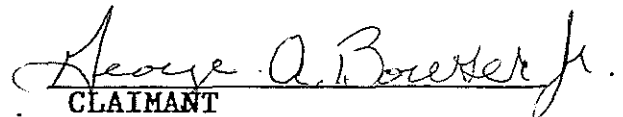
TO: COUNTY OF ERIE
DEPARTMENT OF LAW
95 Franklin Street / Room 1634
BUFFALO, NEW YORK 14202

PLEASE TAKE NOTICE that George A. Bowser Jr., hereby claims and demands, pursuant to §50-e of the General Municipal Law, damages against the COUNTY OF ERIE for damages sustained by Claimant by reason of the wrongful, unlawful, negligent and careless acts and omissions of the COUNTY OF ERIE, its agents, servants or employees; and in support thereof, the Claimant states:

1. The name and post office address of the claimant is:
George Bowser 3707 40 Delaware Ave. Buffalo, New York 14202
2. This claim is for damages sustained by the Claimant while he was an inmate at the Erie County Holding Center, 40 Delaware Avenue, Buffalo, New York 14202-3999.

3. The wrongful, unlawful; negligent and careless acts and omissions of the COUNTY OF ERIE, its agents, servants or employees, occurred as follows: On the 27th Day and the 10th month of 2011 while waiting to be released from my cell for the after dinner lockout we were informed that there was a cell search going on which wasn't a bother to Me being that I had nothing illegal in My cell so I just waited for the search to come around. When it was in fact my turn to be searched I went where they told me to go and when I was at the spot they told me to sit, I turned and faced the direction of my cell, I was in time to witness the male Sgt. kick into my cell to which I had a shelf type set up with all of my legal mail, personal mail, brandnew underclothes, an My Bibles, . He then commenced to walk into my cell with a female officer who was throwing my belongings around with blant disregard and serious disrespect, I call it very immature and unprofessional! and this seriously needs to be looked into, why? well not only did they disrespect me, but there was also several items that came up missing, and those items are as follows: 13 envelopes, (2) packages of hot chocolate, a set of untencils, and (2) library books. there were also (4) pens missing but was informed that since I fixed them to make it easier to write with they are not greivable which I have no problem with, though I do have a major problem with all of the above mentioned issues and missing items.

4. Take further notice that claimant demands payment of his claim, and unless the claim is paid within a reasonable amount of time, and unless the claim is paid within a reasonable amount of time, it is the intention of the claimant to commence a lawsuit against the COUNTY OF ERIE to recover sums claimed as to the damages and injuries sustained by them.


CLAIMANT

VERIFICATION

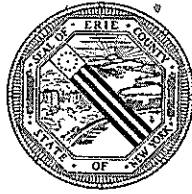
STATE OF NEW YORK)
COUNTY OF ERIE) ss.;
CITY OF BUFFALO)

Mr. George A. Bowser Jr. , being duly sworn, deposes and says that he is the claimant in the within proceeding and has read the foregoing Notice of Claim and knows the contents of same to be true to his own knowledge, save those matters therein alleged upon information and belief, and as to those matters, the same he believes to be true.

George Bowser Jr.

Sworn to before me this 1
day of November 2011
Sylvia M. O'Neal
Notary Public

SYLVIA M. O'NEAL
COMMISSIONER OF DEEDS
in and For the City of Buffalo, Erie County, NY
My Commission Expires Dec. 31, 2012



COUNTY OF ERIE

MICHAEL A. SIRAGUSA
ERIE COUNTY ATTORNEY

MARK C. POLONCARZ
COUNTY EXECUTIVE
DEPARTMENT OF LAW

MICHELLE M. PARKER
FIRST ASSISTANT COUNTY ATTORNEY

JEREMY TOTH
SECOND ASSISTANT COUNTY ATTORNEY

January 24, 2012

Mr. Robert M. Graber, Clerk
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Dear Mr. Graber:

In compliance with the Resolution passed by the Erie County Legislature on June 25, 1987, regarding notification of lawsuits and claims filed against the County of Erie, enclosed please find a copy of the following:

File Name:	<i>Stevens, Joyce vs County of Erie</i>
Document Received:	Notice of Claim
Name of Claimant:	Joyce Stephens 103 North Shore Drive Alden, New York 14004
Claimant's attorney:	Mark J. Peszko, Esq. 515 Brisbane Building Buffalo, New York 14203

Should you have any questions, please call.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: *Michelle Parker*
MICHELLE M. PARKER
First Assistant County Attorney

MMP/mow

Enc.

cc: Michael A. Siragusa, Erie County Attorney

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

IN THE MATTER OF THE CLAIM OF
JOYCE STEPHENS
AGAINST
THE COUNTY OF ERIE

NOTICE OF CLAIM

Please Take Notice, that the undersigned claimant whose Post Office Address is 103 North Shore Drive, Alden, NY 14004 and whose attorney is **MARK J. PESZKO, ESQ.**, 515 Brisbane Building, Buffalo, NY 14203, makes the following claim:

1. Nature of Claim: Property damage and related expenses and loss of use of a motor vehicle arising out of an accident. Claimant's vehicle was damaged as it was crossing the railroad tracks on Ransom Road between Walden Avenue and Broadway.

2. The time, the place where and the manner in which the claim arose was as follows: Claimant's vehicle was traveling on Ransom Road and fell into a pot hole in the railroad tracks on Ransom Road on August 17, 2011 at approximately 3:00 P.M.

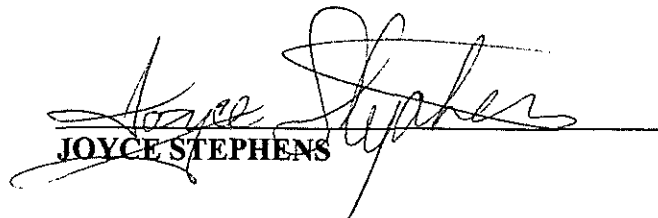
3. The items of damage are alignment, struts, ball joint and installation, all totaling \$414.30.

4. Please take further notice that the Claimant presents this claim for an adjustment in payment and notifies you that unless this claim is adjusted and paid within the time provided by law from the date of its presentation to you, the Claimant intends to commence an action on this claim.

Dated: October 24, 2011
Buffalo, New York

This paper received at the
Erie County Attorney's Office
from MARK PESZKO on
the 27th day of October, 2011
at 3:52 a.m./p.m.


Assistant County Attorney



JOYCE STEPHENS

VERIFICATION

**STATE OF NEW YORK
COUNTY OF ERIE**

JOYCE STEPHENS, being duly sworn, deposes and says:

That she is the Plaintiff named in the foregoing Claim, that she has read the same and knows the contents thereof; that the same is true of her knowledge, except as to the matters therein stated to be alleged on information and belief, and to those matters she believes it to be true.


JOYCE STEPHENS

Sworn to before me this
24th day of October 2011



LAURA A. BRADLEY
Notary Public, State of New York
Qualified in Erie County
My Commission Expires March 28, 2013



COUNTY OF ERIE

MICHAEL A. SIRAGUSA
ERIE COUNTY ATTORNEY

MARK C. POLONCARZ

COUNTY EXECUTIVE
DEPARTMENT OF LAW

MICHELLE M. PARKER
FIRST ASSISTANT COUNTY ATTORNEY

JEREMY TOTH
SECOND ASSISTANT COUNTY ATTORNEY

January 24, 2012

Mr. Robert M. Graber, Clerk
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Dear Mr. Graber:

In compliance with the Resolution passed by the Erie County Legislature on June 25, 1987, regarding notification of lawsuits and claims filed against the County of Erie, enclosed please find a copy of the following:

File Name:	<i>National Fuel Gas Distribution Corp. vs Erie County Sewer District #2</i>
Document Received:	Notice of Claim
Name of Claimant:	Patrick Fellner National Fuel Gas Distribution Corporation 6363 Main Street Williamsville, New York 14221
Claimant's attorney:	Daniel J. Ligman, Esq. National Fuel Gas Distribution Corporation 6363 Main Street Williamsville, New York 14221

Should you have any questions, please call.

Very truly yours,

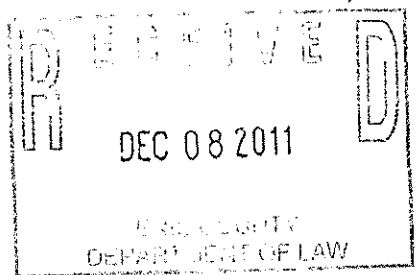
MICHAEL A. SIRAGUSA
Erie County Attorney

By: Michelle Parker
MICHELLE M. PARKER
First Assistant County Attorney

MMP/mow
Enc.

cc: Michael A. Siragusa, Erie County Attorney

TFK



SUPREME COURT: COUNTY OF Erie
National Fuel Gas Distribution Corporation
6363 Main Street
Williamsville, New York 14221

Claimant,

NOTICE OF CLAIM

-vs-

Index No.

Erie County Sewer District #2
c/o Erie County Law Department
95 Franklin Street, Room 1634
Buffalo, New York 14202

Defendant.

TO THE ABOVE NAMED DEFENDANT:

SIR:

PLEASE TAKE NOTICE that the Claimant herein hereby makes claim and demand against the Erie County Sewer District #2 as follows:

1. The name and post-office address of the Claimant is: National Fuel Gas Distribution Corporation, 6363 Main Street, Williamsville, New York 14221. The name and post office address of Claimant's attorney is: Daniel J. Ligman, Esq., National Fuel Gas Distribution Corporation, 6363 Main Street, Williamsville, New York 14221.

2. The nature of the claim is an action for the recovery of property damage to Claimant's underground facilities, for gas loss, and for the cost of the repair of said underground facilities caused solely by the negligence of Defendant and Defendant's violation of the law of trespass, General Business Law, inter alia, Article 36, Sections 760 – 765; Public Service Law, inter alia, Section 119-b; 16 N.Y.C.R.R. Part 753; 29 C.F.R. Sections 1926.1, et. seq., while Defendant was excavating in the Town of Evans, County of Erie and State of New York.

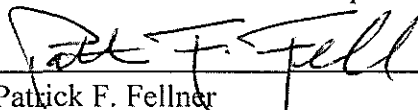
3. The time when, the place where and the manner in which the incidents underlying the claim arose are as follows:

- (i) Damage to Claimant's underground facilities occurred on October 14, 2011, at approximately 10:14 AM, at or near 9679 Oakgrove Drive, Town of Evans, County of Erie and State of New York, when the Defendant was excavating, Defendant negligently and in violation of the law of trespass, General Business Law, inter alia, Article 36, Sections 760 – 765; Public Service Law, inter alia, Section 119-b; 16 N.Y.C.R.R. Part 753; 29 C.F.R. Sections 926.1, et. seq., hit and caused damage to Claimant's natural gas line and the loss of gas.

4. The items of damage are property damage to Claimant's underground facilities, detailed above, and the cost of repairing said damage. That said claim and demand is hereby presented for adjustment and payment. PLEASE TAKE FURTHER NOTICE that by reason of the foregoing, and upon the default of the Erie County Sewer District #2, to pay Claimant the full amount of the damages suffered by reason of the foregoing, within the time limited for compliance with this demand by the said Erie County Sewer District #2, by the statutes in such cases made and provided, Claimant will institute an action against the Erie County Sewer District #2, to recover the full amount of Claimant's damages, with interest and costs.

DATED: Williamsville, New York
 November 28, 2011

Respectfully yours,
National Fuel Gas Distribution Corporation

By: 
Patrick F. Fellner
Assistant Manager of the Risk Department of
National Fuel Gas Distribution Corporation

STATE OF NEW YORK
SUPREME COURT: COUNTY OF Erie
National Fuel Gas Distribution Corporation
6363 Main Street
Williamsville, New York 14221,

Claimant,

-vs-

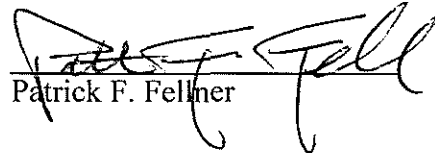
Index No.

Erie County Sewer District #2
c/o Erie County Law Department
95 Franklin Street, Room 1634
Buffalo, New York 14202

Defendant

STATE OF NEW YORK)
) ss.:
COUNTY OF Erie)

Patrick F. Fellner, being duly sworn, deposes and says that I am an employee in the Risk Management Department for National Fuel Gas Distribution Corporation; that I have read the forgoing Notice of Claim; that the same is true to my knowledge, except as to matters stated to be alleged upon information and belief, and as to those matters, I believe them to be true based upon information supplied to me; and the reason the verification is made by me because National Fuel Gas Distribution Corporation is a corporation.


Patrick F. Fellner

Sworn to before me this
28th day of November, 2011


Notary Public

KAREN M. ANDERSON
Notary Public, State of New York
Qualified in Erie County
My Commission Expires 7-31-14



INVOICE

PIPELINE DAMAGE

2012-32830-01

ERIE COUNTY SEWER
8443 OLD LAKESHORE RD
ANGOLA, NY 14006

Date of Loss : 10/14/2011 10:14:00 AM
Location : 9679 OAKGROVE DR
Pipe Size : 1 1/8 In.
Facility : Service

<u>Labor Employee #</u>	<u>Labor Amount</u>
60310	\$80.51
SUPEX	\$11.63
OVERH	\$67.99

<u>Material Description</u>	<u>Amount Billed</u>
001 MATERIAL-STOCK 5007476 PIPE PLASTIC HIGH DENSITY	\$0.30
001 MATERIAL-STOCK 5800544 1-1/8 X .090 CPLG STAB STYL	\$12.44

<u>Equipment Description</u>	<u>Amount Billed</u>
011 DIR VEH & TOOLS	\$7.60

<u>General Description</u>	<u>Amount Billed</u>
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<u>Minutes Blowing</u>	<u>CCF</u>	
10.0	2.87	\$2.53

Total Due =	\$183.00
Total Paid =	\$0.00
Balance Due =	\$183.00

PLEASE REFER TO FILE # : 70715481 ON ALL CORRESPONDENCE

PLEASE DETACH THIS PORTION AND RETURN WITH YOUR PAYMENT

CLAIM # : 2012-32830-01 NFG FILE # : 70715481 AMOUNT: \$183.00

REMIT PAYMENT
WITHIN 30 DAYS
TO:

NATIONAL FUEL
ACCOUNTING DEPARTMENT
6363 Main Street
Williamsville, NY 14221-5887
(716) 857-6920